

HB 1279

2004

A bill to be entitled

An act relating to an additional sales surtax levy for school purposes; amending s. 212.055, F.S.; authorizing school districts to levy an additional sales surtax by resolution for certain purposes; specifies resolution requirements; requiring referendum approval; specifying a rate; requiring public hearings; specifying notice requirements; providing referendum requirements; requiring a plan for capital outlay projects or any operations purposes funded by the surtax; specifying plan requirements; providing for pledging surtax revenues for revenue bonds; prohibiting school or educational facilities impact fees; requiring repeal of such fees under certain circumstances; providing that certain funds to be received by certain school boards for certain purposes be placed in reserve by the Executive Office of the Governor until certain conditions by the Commissioner of Education for release of funds are met; specifying certain conditions; amending s. 125.01, F.S.; prohibiting certain counties from levying any impact fee for school purposes; amending s. 212.054, F.S., to conform; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (8) is added to section 212.055, Florida Statutes, to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.--It is the legislative intent

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30 that any authorization for imposition of a discretionary sales
 31 surtax shall be published in the Florida Statutes as a
 32 subsection of this section, irrespective of the duration of the
 33 levy. Each enactment shall specify the types of counties
 34 authorized to levy; the rate or rates which may be imposed; the
 35 maximum length of time the surtax may be imposed, if any; the
 36 procedure which must be followed to secure voter approval, if
 37 required; the purpose for which the proceeds may be expended;
 38 and such other requirements as the Legislature may provide.
 39 Taxable transactions and administrative procedures shall be as
 40 provided in s. 212.054.

41 (8) DISTRICT SCHOOL CAPITAL OUTLAY AND OPERATIONS
 42 SURTAX.--

43 (a) In addition to any other surtax levied pursuant to
 44 this section, the school board in each county may levy, pursuant
 45 to a resolution adopted by a majority vote of the school board
 46 and conditioned to take effect only upon approval by a majority
 47 vote of the electors of the county voting in a referendum, a
 48 discretionary sales surtax at a rate not to exceed 1 percent.
 49 The resolution shall specify the term and proposed uses of the
 50 surtax. Proceeds of the surtax may be used solely for school
 51 capital outlay or any operating purposes.

52 (b) Before adopting a resolution imposing the surtax
 53 authorized by this subsection, the school board shall conduct a
 54 public hearing in each municipality in the county to discuss the
 55 proposed resolution and the term, projects, and uses specified
 56 in the resolution. Such public hearings shall be conducted in
 57 accordance with the meeting and notice requirements of s.
 58 200.065 but addressing the sales surtax instead of ad valorem

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59 millage and specifying application to any operating purposes.
 60 For purposes of the notice under s. 200.065 for the sales
 61 surtax, references in the notice to uses of tax proceeds for
 62 operations shall not be limited to maintenance operations but
 63 shall include any operating purposes proposed by the school
 64 board to be funded by surtax proceeds.

65 (c) A statement that includes a brief and general
 66 description of the purposes to be funded by the surtax and that
 67 conforms to the requirements of s. 101.161 shall be placed on
 68 the ballot by the governing body of the county. The following
 69 questions shall be placed on the ballot:

71 FOR THE. . . .CENTS TAX

72 AGAINST THE. . . .CENTS TAX

73 (d) If the resolution providing for the imposition of the
 74 surtax proposes to use any proceeds of the surtax for school
 75 capital outlay, the resolution shall set forth a plan for use of
 76 the surtax proceeds for fixed capital expenditures or fixed
 77 capital costs associated with the construction, reconstruction,
 78 or improvement of specific educational facilities which have a
 79 useful life expectancy of 5 or more years, and any land
 80 acquisition, land improvement, design, and engineering costs
 81 related thereto. The plan shall contain an implementation
 82 schedule for construction of the specific school facilities
 83 described in the plan. If the resolution providing for
 84 imposition of the surtax proposes to use any surtax proceeds for
 85 any operating purposes, the plan shall also specify the proposed
 86 allocations of surtax proceeds for such operating purposes. A
 87 school district that receives proceeds under this subsection may

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88 pledge the proceeds for the purpose of servicing new bond
 89 indebtedness incurred pursuant to law. A school district may use
 90 the services of the Division of Bond Finance pursuant to the
 91 State Bond Act to issue any bonds through the provisions of this
 92 subsection.

93 (e) Pursuant to s. 212.054(4), the proceeds of the surtax
 94 levied under this subsection shall be distributed to the school
 95 district of the county in which the surtax was collected.

96 (f) Any school board levying the surtax authorized by this
 97 subsection may not impose any school or educational facilities
 98 impact fee and, prior to levying the surtax, shall repeal any
 99 existing school or educational facilities impact fee imposed by
 100 the board.

101 Section 2. Any funds to be received pursuant to s.
 102 212.055(8), Florida Statutes, by a school district in a county
 103 as defined in s. 125.011(1), Florida Statutes, with a population
 104 greater than 2 million, shall be placed in reserve by the
 105 Executive Office of the Governor until the Commissioner of
 106 Education certifies that conditions for release of funds have
 107 been met. These conditions shall include a recommendation for
 108 release of funds received from the Land Acquisition and
 109 Facilities Maintenance Operations Advisory Board appointed by
 110 the Governor and the Legislature. Any recommendation from the
 111 advisory board for the release of funds shall include
 112 certification that policies established, procedures followed,
 113 and expenditures made by such school board related to site
 114 acquisition and facilities planning, construction, and
 115 facilities maintenance operations are consistent with
 116 recommendations of the Land Acquisition and Facilities

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117 Maintenance Operations Advisory Board and will accomplish
 118 corrective action recommended by the Auditor General and the
 119 Office of Program Policy Analysis and Government Accountability.

120 Section 3. Subsection (8) is added to section 125.01,
 121 Florida Statutes, to read:

122 125.01 Powers and duties.--

123 (8) Any county in which the school board is levying the
 124 local option sales surtax pursuant to s. 212.055(8) is
 125 prohibited from levying any impact fee for school purposes.

126 Section 4. Subsection (7) of section 212.054, Florida
 127 Statutes, is amended to read:

128 212.054 Discretionary sales surtax; limitations,
 129 administration, and collection.--

130 (7)(a) The governing body of any county levying a
 131 discretionary sales surtax or the school board of any county
 132 levying the school capital outlay surtax authorized by s.
 133 212.055(6) or (8) shall notify the department within 10 days
 134 after final adoption by ordinance, resolution, or referendum of
 135 an imposition, termination, or rate change of the surtax, but no
 136 later than November 16 prior to the effective date. The notice
 137 must specify the time period during which the surtax will be in
 138 effect and the rate and must include a copy of the ordinance or
 139 resolution and such other information as the department requires
 140 by rule. Failure to timely provide such notification to the
 141 department shall result in the delay of the effective date for a
 142 period of 1 year.

143 (b) In addition to the notification required by paragraph
 144 (a), the governing body of any county proposing to levy a
 145 discretionary sales surtax or the school board of any county

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146 proposing to levy the school capital outlay surtax authorized by
147 s. 212.055(6) or (8) shall notify the department by October 1 if
148 the referendum or consideration of the ordinance or resolution
149 that would result in imposition, termination, or rate change of
150 the surtax is scheduled to occur on or after October 1 of that
151 year. Failure to timely provide such notification to the
152 department shall result in the delay of the effective date for a
153 period of 1 year.

154 Section 5. This act shall take effect October 1, 2004.